

GORDON L. COOPER

IBLA 80-489

Decided December 5, 1980

Appeal from a decision of the California State Office, Bureau of Land Management, declining to accept for recordation notices of location for lode mining claims. CA MC 64092 through 64114.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment -- Mining Claims: Location -- Mining Claims: Recordation -- National Park Service: Generally

Pursuant to 43 CFR 3833.1-1, an unpatented mining claim in any national park system unit in existence on Sept. 28, 1976, which was not recorded on or before Sept. 28, 1977, in accordance with the Federal Register notice (41 FR 46357 Oct. 20, 1976), or 36 CFR 9.5 is, pursuant to 16 U.S.C. § 1907 (1976), conclusively presumed to be abandoned and void.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations.

APPEARANCES: Gordon L. Cooper, Esq., pro se; John W. Burke III, Esq., Office of the Solicitor, San Francisco, California, for the Government.

## OPINION BY ADMINISTRATIVE JUDGE GOSS

Gordon L. Cooper appeals from a decision of the California State Office, Bureau of Land Management (BLM), dated February 20, 1980, declining to accept for recordation notices of location for certain lode mining claims, *i.e.*, the Higold #1 through #7, High Gold #8 through #12, the Hornspoon, and the Great Hornspoon #1 through #15 (the Great Hornspoon Mining Claim Group), CA MC 64092 through 64114. The claims are located in Inyo County, California, within Death Valley National Monument, administered by the National Park Service.

BLM, relying upon a decision of the Park Service, dated December 11, 1979, and 43 CFR 3833.1-1, rejected appellant's filing, which was received on January 28, 1980. The documents, map, and check were returned to appellant.

[1] Pursuant to 43 CFR 3833.1-1, "[A]ny unpatented mining claim \* \* \* in any National Park System unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 (41 FR 463571) or 36 CFR 9.5 is, pursuant to section 8 of the Act of September 28, 1976 (16 U.S.C. 1907), conclusively presumed to be abandoned and shall be void."

Appellant's mining claims were located between 1957 and 1967. However, his notices of location were not recorded with the National Park Service on or before September 28, 1977, in accordance with the above regulation. Therefore, BLM properly declined to record the notices which were sent after that date. The mining claims must be conclusively presumed abandoned and deemed void.

[2] In his statement of reasons for appeal, appellant alleges "confusion of the new laws relating to mining claims," as reason for his failure to timely record his notices of location. All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations. Tod Anderson, 50 IBLA 66 (1980); Kenneth K. Parker, 48 IBLA 131 (1980); Willene Minnier, 45 IBLA 1 (1980). The mandate of the statute and regulations does not permit an exception to be made based upon appellant's misunderstanding of the new laws.

Appellant also contends that he is entitled to the mining claims by virtue of the length of time that he has held an interest in the claims (26 years), the amount of money invested in the claims (over \$142,000), the value of the gold and silver in the claims, and the fact that the Park Service knew that appellant intended to retain ownership of the claims. Despite these factors, however, the statute and regulations require that the claims be declared abandoned and void.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals, by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed and the mining claims are declared to be void.

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Joseph W. Goss  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Douglas E. Henriques  
Administrative Judge

